

In general, Voice Over Internet Protocol ("VOIP") is telecommunications subject to tax within the meaning of "telecommunications" and "gross charges" pursuant to the Telecommunications Excise Tax Act, 35 ILCS 630/2; the Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/10; and the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-7. (This is a GIL.)

January 24, 2006

Dear Xxxxx:

This letter is in response to your e-mail received December 8, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am the accountant for a new company called ABC, based here in Illinois, and providing Voice over Internet Protocol [sic] (VoIP) service. We recently received our registration and IBT number. To our knowledge, none of the other VoIP companies (including Vonage) are paying taxes to the state for providing this service. When we received our certificate of registration from the IL Dept. of Revenue, an authorized tax for the "Telecommunications Infrastructure Maintenance Fee" was listed. We had received prior advice from our attorney that (1) VoIP is an unregulated service because it is using the public internet (and not a facilities based phone network), and (2) that it would not be subject to taxes like the one mentioned above. When I called and asked about this, I was referred to a General Information Letter dated 1-5-05 which states that, in addition to the tax mentioned above, a 7% excise tax would also be collectible and due to the state. Obviously, this would have an extremely negative effect on our business especially when no one else is charging this to their customers.

I guess I need some clarification. Some of these issues are important enough that we need to get them resolved before we pull the trigger on going into business. We would appreciate any clarification you can provide.

DEPARTMENT'S RESPONSE:

The Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons, 35 ILCS 630/3 and 4. The tax imposed shall be collected from the taxpayer by a retailer maintaining a place of business in this State and remitted to the Department, 35 ILCS 630/5.

The Act defines "gross charges" as including amounts paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by retailers, 35 ILCS 630/2(a). Please refer to 86 Ill. Adm. Code 495.100.

The definition of "telecommunications" under the Act is very broad and encompasses Voice Over Internet Protocol communications. More specifically, the Act states that "Telecommunications, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities." See 35 ILCS 630(2)(c).

Voice Over Internet Protocol ("VOIP") is telecommunications subject to tax within the meaning of "telecommunications" and "gross charges" pursuant to the Telecommunications Excise Tax Act, 86 Ill. Adm. Code 495.100; the Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/10; and the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-7.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk